

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NEW YORK

Robert E. Thomas,

Plaintiff,

v.

13-CV-303
Decision & Order

James Esgrow,

Defendants.

On February 7, 2013, the plaintiff commenced this prisoner civil rights action, alleging a deprivation of his rights under the First and Fourteenth Amendments. Docket Item 1, 11. On March 9, 2015, the Honorable Richard J. Arcara referred this case to United States Magistrate Judge Leslie G. Foschio for all proceedings under 28 U.S.C. § 636(b)(1)(A) and (B). Docket Item 20. The case was then transferred from Judge Arcara to the undersigned on March 8, 2016. Docket Item 32.

On November 16, 2016, this Court adopted Judge Foschio's Report and Recommendation ("R&R") and dismissed this action against all but one defendant. On March 23, 2017, the remaining defendant, James Esgrow, moved to dismiss. Docket Item 47. On March 1, 2018, Judge Foschio issued a second R&R, finding that the defendant's motion should be granted and that the Clerk of Court should close the file. Docket Item 54. The parties did not object to the R&R, and the time to do so now has expired. See 28 U.S.C. § 636(b)(1); Fed. R. Civ. P. 72(b)(2).

A district court may accept, reject, or modify the findings or recommendations of a magistrate judge. 28 U.S.C. § 636(b)(1); Fed. R. Civ. P. 72(b)(3). A district court

must conduct a de novo review of those portions of a magistrate judge's recommendation to which objection is made. 28 U.S.C. § 636(b)(1); Fed. R. Civ. P. 72(b)(3). But neither 28 U.S.C. § 636 nor Federal Rule of Civil Procedure 72 requires a district court to review the recommendation of a magistrate judge to which no objections are raised. See *Thomas v. Arn*, 474 U.S. 140, 149-50 (1985).

Although not required to do so in light of the above, this Court nevertheless has reviewed Judge Foschio's R&R. Based on that review and the absence of any objections, the Court accepts and adopts Judge Foschio's recommendation to grant the defendant's motion.

For the reasons stated above and in the R&R, Esgrow's motion to dismiss, Docket Item 47, is GRANTED. The complaint, Docket Item 11, is dismissed; and the Clerk of the Court is instructed to close the file.

SO ORDERED.

Dated: May 8, 2018
Buffalo, New York

s/Lawrence J. Vilardo
LAWRENCE J. VILARDO
UNITED STATES DISTRICT JUDGE